

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RALPH E. CINDRICH,)
Plaintiff,)
v.) Civil Action No. 05-828
KENNETH M. DOOLITTLE dba) Judge Donetta W. Ambrose
INVESTORS DOMAIN SERVICES,) Magistrate Judge Lisa Pupo Lenihan
Defendant.)
)

REPORT AND RECOMMENDATION

Report

The complaint in the above captioned action was filed on June 17, 2005. An affidavit of service was filed on July 26, 2005 for summons and complaint served on Kenneth Doolittle on July 6, 2005. Plaintiff then requested, and was subsequently granted, an entry of default, which was entered by the clerk of courts on August 8, 2005.

Pursuant to a motion by Plaintiff, this Court held a hearing on default judgment and damages on August 24, 2005. Notice of this hearing was sent by the Court via certified mail to Kenneth Doolittle. The certified mail receipt provided by the U.S. Postal Service confirms that service was made on August 12, 2005. Neither the Defendant, nor any representative thereof, appeared at the hearing.

At the August 24 hearing on the entry of judgment and damages the testimony of the Plaintiff, Ralph E. Cindrich, was submitted via affidavit as is customary and with consent of the Court. Said affidavit has been filed as document number 7. In addition, counsel for Plaintiff,

Dean Collins, advised the Court that Plaintiff was requesting an injunction to stop Defendant from utilizing the domain name www.footballagent.com, and an award of attorneys fees in the amount of \$5,850.00. An affidavit in support of the fee request was filed as document number 8.

On September 2, 2005, without requesting leave of court or providing any information to explain the lateness of the filing, Defendant, proceeding pro se, filed an Answer to the Complaint. Because the filing of the answer, without a motion for relief of judgment was improper, this Court, on September 6, 2005, ordered the Answer stricken (Doc. No. 11). Defendant was granted until October 6, 2005 to file a Motion for Relief from Judgment. To date, nothing has been filed.

Recommendation

For the reasons set forth above, the undersigned respectfully recommends that the proposed order filed by Plaintiff on August 30, 2005 (Doc. No. 9) be entered by the District Court.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrate Judges, the parties are allowed ten (10) days from the date of service of a copy of this Order to file objections to this Order. Any party opposing the objections shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

Dated: October 13, 2005

BY THE COURT:



LISA PUPO LENIHAN
U.S. MAGISTRATE JUDGE

Cc: Dean E. Collins
Cindrich & Associates
552 Washington Avenue
Carnegie, PA 15106-2894

Kenneth M. Doolittle
11 Seaside Village
Aptos, CA 95003